2007-03035/



**Ottawa, April 28, 2006**
**2006-011**

# Government Announces the Modernization of Governance Legislation for Financial Institutions

***Related document:***

- Backgrounder: An Act to amend certain Acts in relation to financial institutions

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Minister of Finance Jim Flaherty announced that legislation to modernize the governance standards for banks, insurance companies and other financial institutions will begin to take effect.

"The financial services sector is one of the key foundations of a modern economy," Minister Flaherty said. "Canadian financial institutions need to be equipped with the same governance tools that are available to other companies to compete in the global financial marketplace."

Formally known as An Act to amend certain Acts in relation to financial institutions (Bill C-57), this legislation received Royal Assent on November 25, 2005. The Government will bring it into application in three phases, commencing today. This phased approach will give financial institutions time to adapt their policies and procedures, and allow for the development of regulations and consultations with the industry.

This legislation will facilitate such things as electronic communications and electronic participation in shareholder meetings, and would harmonize rules for insider reporting and prospectuses with the various provincial securities rules.

A backgrounder on this legislation is attached.

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For further information, media may contact:

Eric Richer
Press Secretary
Office of the Minister of Finance
(613) 996-7861

David Gamble
Media Relations
Department of Finance
(613) 996-8080

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## Backgrounder

### An Act to amend certain Acts in relation to financial institutions

On November 25, 2005, An Act to amend certain Acts in relation to financial institutions (Bill C-57) received Royal Assent.

Bill C-57 amends sections of the Bank Act, Insurance Companies Act, Trust and Loan Companies Act, Cooperative Credit Associations Act and Green Shield Canada Act.

Measures fall into five categories:

- Clarifying the roles of directors.
- Enhancing the rights of shareholders.
- Modernizing governance practices.
- Strengthening the governance elements of the regulatory framework.
- Increasing disclosure of information in respect of participating and adjustable life insurance policies.

The first phase of the legislation comes into force on April 27, 2006. Subsequent phases will be completed by fall 2006.

The first phase will bring into force a number of technical changes. As well, the amendments will:

- Clearly articulate a "due diligence" defence, a right already extended to directors of other corporations. A due diligence defence encourages directors to take proactive measures to fulfill their responsibilities with the confidence that reasonable defences are available in the event of challenges.

- Expand the eligibility of medium-sized insurers and trust and loan companies to apply for an exemption from the requirement to float 35 per cent of their voting shares on a stock exchange. This would bring the rules into line with those that apply to banks, which are now eligible for the exemption.

In the subsequent phases, the amendments will:

- Clarify the roles of directors: The financial institution statutes set out the standards, qualifications and duties expected of directors of financial institutions. Bill C-57 clarifies the role of directors in carrying out their important functions, for example, by clarifying the conflict of interest rules.

- Modernize governance practices: The new legislation facilitates electronic communication with shareholders, participating policyholders, consumers and the regulator, adds a going-private framework to the federal statutes, and sets out authority for insider reporting rules to be harmonized with the rules applied by provincial regulatory authorities.

- Enhance the rights of shareholders: The financial institution statutes set out the rights of shareholders to participate in the major decisions of a financial institution in which they have an interest. Bill C-57 enhances the ability of shareholders to exercise their rights by, for example, permitting electronic participation in meetings and allowing shareholders greater freedom to communicate without triggering the proxy rules.

- Increase disclosure of information in respect of participating and adjustable life insurance policies: The policyholder governance framework in the Insurance Companies Act reflects the unique interests and role of participating policyholders in the corporate governance of insurance companies.

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